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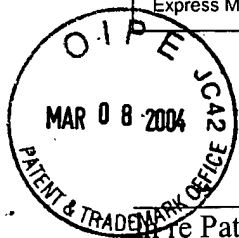
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AP 3111

Express Mail Label No. _____

Dated: _____

Docket No.: 01150/000H262-US0
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application of:

Dennis Barry

Application No.: 09/699,955

Confirmation No.: 8257

Filed: October 30, 2000

Art Unit: 3711

For: VEHICUBE-FLORIDA FUN & FORTUNE

Examiner: A. A. Hunter

APPELLANT'S BRIEF

RECEIVED

MAR 15 2004

TECHNOLOGY CENTER R3700

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is in furtherance of the Notice of Appeal, filed in this case on January 8, 2004 in response to the Final Rejection of October 8, 2003..

The fees required under § 1.17(f) and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate. Appendix A contains the claims on appeal.

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is the inventor:

Dennis Barry

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1, 3-4 and 6-27 are of record. No claims have been allowed. The claims on appeal are claims 1, 3-4, and 6-27. These are as presented in the amendment dated June 18, 2003 and are reproduced in Appendix A.

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IV. STATUS OF AMENDMENTS

TECHNOLOGY CENTER R3700

There are no outstanding amendments.

Appellant notes that the record contains the Exhibits attached to the amendment dated June 18, 2003 and the Letter dated July 29, 2003.

V. SUMMARY OF INVENTION

The present invention is an improvement of a geographical-type game disclosed in Appellant's prior U.S. patent Barry 4,093,235 granted June 6, 1978.

The game of the patent includes a game board (Fig. 1 of the patent and of this application), having a series of marked areas (18) constituting a path extending about the board. Each of the marked areas represents a particular geographical locality of a region illustrated by a map (14) outlined in the central area of the board. In the illustrative embodiment this is a map of Florida and the marked areas are points of tourist interest, such as Disney World, Kennedy Space Center, Daytona Beach, The Everglades National Park, etc. Each of the points of interest (18) is also appropriately marked by a visual indicator to indicate by what mode of transportation it can be accessed. The transportation modes include auto, boat and/or airplane conveyances.

In the game of the Barry patent, each player is provided with a full set of tokens, each token physically representing a type of transportation conveyance. That is, one token is in the shape

of an auto, another an airplane and a third a boat. These tokens, in the shape of the conveyance that they represent, are made, for example, of die cast plastic or metal.

In one of the described modes of playing the game (column 4, line 51-column 6, line 52), each player moves each one of his set of automobile, boat and airplane tokens around the board in succession. That is, a player first moves around the board by automobile, then by boat and, finally, by airplane. In doing so, the automobile token may occupy any of the designated geographical (tourist) areas, while the boat and airplane tokens may occupy only those areas visually designated as being accessible by boat and airplane, respectively.

The game of the prior Barry patent has disadvantages in that the tokens in the physical shapes of the transportation conveyances are relatively small. This presents problems in that they can be broken or lost. Also, they are somewhat costly in that a special mold must be made for each. A further disadvantage is that when several players "land on" the same marked area (18) at the same time, the particular board location becomes cluttered with a number of tokens. In addition, players with impaired dexterity, for example, people suffering from arthritis and similar diseases that make it difficult to grasp a token, have a problem in manipulating the tokens (Specification, page 3, lines 3-5).

The inventive improvement of this application to the game of the prior Barry patent is that the set of individual transportation conveyance shaped tokens provided to a player is replaced by a single three-dimensional token, called a multi-token (42). As disclosed (Figs. 2a and 2g, page 10, line 4-page 11, line 2) and claimed (independent claim 1), the novel multi-token that interfaces with the claimed gameboard described above:

(a) is an elongated parallelepiped comprising a body (42) with four flat sides and two opposite ends,

(b) on the surface of each of at least three of the flat sides (42a, 42b, 42c, 42d) is a respective visual representation of a different transportation conveyance. For example, one token side has a picture of an auto, a second side the picture of a boat, and a third side a picture of an airplane. The flat sides provide a surface area for the visual representation. They also permit vertical stacking of a plurality of the multi-tokens with each multi-token in a stack displaying at

least two flat sides and one visual representation of a transportation mode, as well as the ends of the elongated parallelepiped body.

(c) each of the opposite ends of the elongated parallelepiped body has a gripping wing (Fig. 2g, 42h) that is within the outer periphery of the body. The gripping wing is spaced from the body to form a recess.

(d) the outer surface (42e) of each of the gripping wings, that is, the outer end surface of the multi-token, has a respective visual indication of playing status movement of the multi-token relative to the gameboard. These are GO and NO-GO indications with one end surface placed facing a marked area (18) and the other facing the opposite direction to be viewed to indicate the playing status of the multi-token. The visual indicators can be of different colors, such as red and green (page 10, lines 16-19; claims 22-23 and 26-27).

A player uses the multi-token in playing the game in the same manner as using the individual transportation conveyance shaped tokens of the game of the prior patent. The multi-token is oriented to display the conveyance type in play on its top surface and the ends are pointed in the correct direction to indicate movement status. When the player is to play using another type of transportation conveyance, it is only necessary to turn the same multi-token and place a surface on the gameboard so that the appropriate type of transportation conveyance is displayed facing up (page 13, line 15-page 17, line 20).

The game of the prior patent when used with the novel multi-token of the invention has several advantages. As compared to the individual token conveyances of the prior patent, the multi-token can be made in a simple and economical manner, such as a molded plastic piece, or cut from a block of wood. It is durable and can be made large to permit use by a player having a dexterity deficiency. The gripping wings at the ends of the multi-token also provide an added degree of dexterity by feel for a player having limited sensitivity of the fingers. That is, the tip of the player's finger will "feel" the recess between the gripping wing and the body. The presence of the gripping wing and recess gives a "non-slip" advantage when the multi-token is grasped.

VI. ISSUES

Are all claims properly rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Barry, U.S. 4,093,235, Appellant's prior patent, in view of Moore, U.S. 3,642,286. Appellant's prior patent Barry '235 is discussed in Section V above. Moore is relied on for its teaching of a cubical (not elongated parallelepiped) playing piece used on a gameboard.

VII. GROUPING OF CLAIMS

There is no specific grouping of the claims. Main claim 1 presents the issue on appeal. Claims 22-23 and 26-27 define several additional features of the "gripping wings" which further distinguish the invention over the prior art.

VIII. ARGUMENT

A. The Rejection of the Claims

The Final Rejection rejects claims 1, 3, 4 and 6-27 as being unpatentable over the combination of Appellant's prior patent 4,093,235 in view of Moore, U.S. 3,642,286.

The subject matter of main claim 1 of the application is basically the combination of the gameboard disclosed in Appellant's prior patent, Barry, 4,093,235, as described above, and the novel multi-token. The multi-token has features which interface and cooperate with the gameboard. The invention as claimed must be viewed with the cooperation of the two and not just the multi-token alone.

B. The Principles To Be Applied in Rejecting the Claims

Before discussing the specifics of the rejection, Appellant notes MPEP §2141 at page 2100-16, which states:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

(A) The claimed invention must be considered as a whole;

(B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;

(C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and

(D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Appellant submits that the Final Rejection "misses the mark" on all of the above.

C. The Final Rejection Under §103 Did Not Adhere To The Tenet.

(a) The Claimed Invention Was Not Considered As A Whole.

As set forth in MPEP 52-106 at pages 2100-9:

Finally, when evaluating the scope of a claim, every limitation in the claim must be considered. Office personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered. See, e.g., *Diamond v. Diehr*, 450 U.S. 1t 188-89, 209 USPQ at 9.

In this matter, as discussed below, the Examiner has not considered every element of main claim 1. In particular, the Examiner has considered the multi-token in an isolated manner and has neglected the claimed gameboard and the interface of the multi-token with the gameboard as set forth in the last part of clause (c) of claim 1.

(b) The References Do Not Teach Or Suggest The Desirability Of Making The Combination.

The prior Barry patent is relied on for the disclosure of the elements of the gameboard. These are set forth in the first two clauses of claim 1. As to Moore, in the Final Rejection (page 2, lines 15-20) the Examiner's position is stated that:

Moore is relied on for the disclosure of a game having changeable faces in which bear indicia on all sides (See Figs. 2 and 3). The indicia possess

different characteristics such as different power or capability, direction of movement, etc. (see Abstract and entire document). Moore also discloses that the playing pieces may be of different color to differentiate each player's pieces and are stackable (see column 2, lines 24-30, and column 4, lines 56-69).

Appellant does not disagree with the Examiner's above-described analysis of Moore, as far as it goes, except to further comment that when the pieces are "stacked" (column 4, lines 56-69) the stack is moved as a complete unit — like a "king" in checkers. But further analysis of Moore is needed and is presented below.

The Barry patent is directed to a geographical-type game, and its gameboard is so claimed, that has marked areas corresponding to various tourist attractions. Contrasted to this, the Moore patent (column 2, lines 43-64) is directed to a "capture" type game that uses a checker board type of layout, i.e., a plurality of squares (as described at column 2, lines 38-42). In Moore, each player is provided with ten of the cubical game pieces 16. Each side of a game piece is of a different color which represents a capture power. The player throws a pair of dice, one die indicating the number of spaces that can be moved. If this results in the landing on a space on which an opponent's piece is present, the opponent's piece is captured if its color is of a power equal to or less than that of the "face up" color value of the piece being moved.

With the above in mind, the question of the desirability and suggestion of making the combination is addressed. That is, upon viewing Moore, why would the inventor, Mr. Barry, find it to be desirable to use Moore's capture-type cubical piece? The simple answer is that there is no suggestion to make the combination. Clearly, the Barry patent's geographic and transportation mode game and the capture type of Moore are different. Moore clearly has no teaching or suggestion of the claimed geographical type gameboard of claim 1. Nor does Moore teach or suggest the specific feature of the claimed multi-token or of using one of his pieces to indicate a mode of transportation as well as play status (the end faces of the gripping wings, the sides of the elongated parallelepiped). Appellant asks where is the suggestion to make the combination? The answer is that there is none.

(c) Hindsight Was Used In Making The Rejection.

The Examiner, in focusing on only one element of claim 1, the multi-token, admits (Final Rejection, page 3, lines 7-9) that neither of the references discloses a game piece having gripping wings. He then states that the application does not disclose the criticality of the wings and, because of this, it would be an obvious matter of design choice to use the gripping wings. This type of reasoning is clearly based on hindsight and there is no basis for support. Appellant also takes issue with the Examiner's position since it is disclosed that the multi-token of the invention (page 3, lines 3-5 and page 4, lines 6-9) is designed for players whose dexterity is impaired. The gripping wings help such people. As to "criticality", the gripping wings provide an additional advantage to the multi-token.

(d) Even An Improper Combination Of The Reference Does Not Meet The Claim Limitations.

The combination of the references, even if improperly made, does not meet the "reasonable explanation of success" tenet. That is, the combination does not have all of the claimed elements. The game pieces of Moore:

i. are not formed as an elongated parallelepiped body. They are cubic pieces. The elongated parallelepiped feature of the invention permits easy stacking of the multi-tokens. The tokens of Appellant's prior Barry patent are in the physical form of a transportation conveyance and cannot be stacked.

ii. do not have visual representation of the various modes of transportation (air, boat, auto) that are placed on at least three of the elongated flat sides of the multi-token body of the invention.

iii. do not have a gripping wing at each of the ends of the elongated parallelepiped body. The gripping wing is spaced from the end of the parallelepiped body and leaves a recess. The purpose of the gripping wing is to improve the tactile feel of the token in several respects. A fingernail can be inserted into the recess to aid in moving the token. Also, the flesh of the fingertip that falls into the recess between the wing and the body and encounters the ridge surface and the

fingernail that falls into the recess produces a different force pattern on the fingertip that is recognizable by the brain (discussed below). It also provides a firmer grip of the token and reduces the possibility of the token slipping from between the fingers.

Claim 1 also recites that the gripping wing is within the outer periphery of the body. Therefore, the gripping wings do not interfere with the stacking of the multi-token.

iv. do not have a visual indication of the movement status of the tokens, i.e., the GO and NO-GO indication, as set forth in claims 22-23 and 26-27, which can also be in color. This feature interacts with the gameboard.

Accordingly, even if the combination of references is properly made, which Appellant contends it is not, the terms of claim 1 are not met.

D. The Examiner's Reasons For Making The Rejection Are Not Supported.

Appellant next addresses various points made by the Examiner in the Final Rejection.

In making the combination of references, the Examiner takes the position (Final Rejection, page 2, four lines from the bottom) that it would appear that stacking of the pieces in Moore would prevent the pieces from crowding on a particular area of the board. This is totally unreasonable in the context of the playing of this game of the Moore patent since the object is the capture of pieces. Each cubical piece fits within a defined square. In Appellant's invention, there is no similar relationship of the multi-token having to fit within a square on the gameboard. Also, when pieces are stacked it is due to the fact that one player has two pieces in play or there are two players at the same geographic location.

The Examiner also contends (Final Rejection, page 2, three lines from the bottom) that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have indicia on a number of faces or ends of the game pieces, as taught by Moore, in order to show the different characteristics of the pieces, such as capability and movement. If the pieces of Moore are analyzed within the context of his game, this is correct. However, this is totally unlike Appellant's game wherein indicia on the side faces of the multi-token indicate transportation

conveyances to interact with matching transportation mode accessibility to the various geographic areas on the gameboard.

The Examiner next contends (Final Rejection, page 3, lines 2-6) that Appellant does not disclose why it is "critical" for the multi-tokens to be of an elongated parallelepiped or pyramid shape, and that it would be a matter of design choice to make them of any desired shape. First of all, the claims do not refer to a pyramid shape. Second, the elongated-parallelepiped shape was selected to eliminate the need and added cost for the more expensive conveyance type single tokens to permit easier gripping and to permit stacking. The Examiner also neglects to consider that indicia of transportation modes on the sides of the pieces that interact with matching mode indicia on the gameboard. Moore has nothing similar to this interaction and has no need for it.

The Examiner next contends (Final Rejection, page 3, lines 7-11) that it is inherent within Moore that a player would grab the sides of the game pieces in order to move the pieces. While this is correct, it is much easier to grab the sides of an elongated parallelepiped piece than a cubic piece that does not have elongated sides.

The Examiner next addresses (Final Rejection, bottom of page 3) the arguments filed in the amendment dated June 18, 2003. In that amendment, Appellant had argued (among other points) that obviousness had not been established because the art relied on by the Examiner did not disclose a playing piece having gripping wings. The Examiner does not directly meet this argument. He takes the position the Appellant had argued that the gripping wings are "critical" for a player to grip the tokens. This is not correct. Appellant had argued that the wings were advantageous within the context of the overall construction of the multi-token of a parallelepiped shape and provided further advantages.

The Examiner also states (Final Rejection, page 4, lines 2-14) that since the advantages of the gripping wings were not disclosed in the application as originally filed, that reliance on this feature leads him to believe that the arguments are spurious. Appellant respectfully takes issue with this. The physical construction of the multi-token, elongated parallelepiped and gripping wings at the end, have inherent advantages. It is well settled that an applicant does not have to disclose all of the advantages in the Specification. As set forth in MPEP §716.02(f):

716.02(f) Advantages Disclosed or Inherent

The totality of the record must be considered when determining whether a claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. Therefore, evidence and arguments directed to advantages not disclosed in the specification cannot be disregarded. *In re Chu*, 66 F.3d 292, 298-299, 36 USPQ2d 1089, 1094-95 (Fed. Cir. 1995) (Although the purported advantage of placement of a selective catalytic reduction catalyst in the bag retainer of an apparatus for controlling emissions was not disclosed in the specification, evidence and arguments rebutting the conclusion that such placement was a matter of 'design choice' should have been considered as part of the totality of the record. 'We have found no cases supporting the position that a patent applicant's evidence or arguments traversing a §103 rejection must be contained within the specification. There is no logical support for such a proposition as well, given that obviousness is determined by the totality of the record including, in some instances most significantly, the evidence and arguments proffered during the give-and-take of *ex parte* patent prosecution.' 66 F.3d at 299, 36 USPQ2d at 1095).

Appellant argued the inherent advantages.

Appellant also submitted evidence in the form of publications with the amendment of June 18, 2003 and the Letter of July 29, 2003 to support its argument that the gripping wings enhanced the tactile feel. The Examiner (Final Rejection, page 4, line 18 to page 5, line 1) appears to have refused consideration of this evidence on the basis that the publications either had a date after that of the application, or were undated.

The evidence submitted was not to overcome the date of a reference. It was only submitted to provide scientific support for an inherent advantage provided by one of the claimed features of the multi-tokens. Therefore, it should be considered.

Of greater importance is the fact that the claimed gripping wings are not found in the prior art and the Examiner's rebuttal to this is based only on hindsight.

E. Summary.

The Examiner has failed to consider all of the limitations of main claim 1, particularly the interface and relationship between the claimed gameboard and novel-multi-token.

APPENDIX A**Claims Involved in the Appeal of Application Serial No. 09/699,955**

1. A board game apparatus designed to acquaint players with a predetermined geographical region as represented on a map, said apparatus comprising:

a board having predefined directions thereon corresponding to directions on said map and including a series of marked areas forming a path extending about said board, each of said marked areas representing a particular locality within said region, having indicia therein identifying said locality, and being disposed on said board to correspond generally with the location of said locality on said map, selected ones of said marked areas on said board being designated as accessible only by indicated modes of transportation;

a plurality of multi-tokens, each said multi-token dedicated to a different player and being moveable for transportation along said path, wherein each said multi-token

(a) is an elongated parallelepiped comprising a body with four flat sides and two opposite ends,

(b) the surface of each of at least three of said flat sides has a respective visual representation of a different mode of transportation for use by the corresponding player, and the said flat sides permitting vertical stacking of a plurality of said tokens with each token in a stack displaying at least two flat sides and one visual representation of a mode of transportation,

(c) each of the opposite ends of said elongated parallelepiped body having a gripping wing that is within the outer periphery

of said body of said object and that is spaced from said body to form a recess and that has on the outer surface of the respective gripping wing a respective visual indication of movement of the multi-token relative to said board, with one of said visual indications of a gripping wing to be placed facing a said marked area and the other facing the opposite direction to be viewed to indicate the playing status of the multi-token, each multi-token to be moveable only with respect to marked areas corresponding to localities accessible by the corresponding mode of transportation; and means for determining the movement of each said multi-token means about said path.

2. Claim 2 canceled.

3. A board game as in claim 1 wherein each of the representations of a mode of transportation on a token is of the same color to identify the player associated with it and the multi-tokens of the game each have different colors of the representations to identify a respective player.

4. A board game as in claim 1 wherein each of the multi-tokens of the game is of a different color to identify a player.

5. Claim 5 canceled.

6. A board game apparatus as recited in claim 1 wherein said region is an existing geographical region, said localities being geographical localities existing within said region, said accessibility designations being indicative of the actual accessibility of said localities by land,

water and air modes of transportation, said representations of each multi-token corresponding, respectively, to means for traveling by land, water and air modes of transportation.

7. A board game apparatus as recited in claim 6 wherein selected ones of said areas are designated by colors so as to constitute a distinguishable group.

8. A board game apparatus as recited in claim 7 wherein each such area comprising one of said groups is on a different side of said board.

9. A board game apparatus as recited in claim 6 wherein selected areas have indicia indicating charges required for the use and occupancy of said areas by opponent players.

10. A board game apparatus as recited in claim 9 further comprising means for increasing the rentals for a particular area by the acquisition of localities represented by areas adjacent to said particular area.

11. A board game apparatus as recited in claim 6 further including a set of cards, each card having indicia thereon representing either a question whose answer is one of said geographical localities on said board or other instructions, selected areas on said board having instructions thereon to select one of said set of cards upon a player landing thereon.

12. A board game apparatus as recited in claim 11 further including a set of reward cards, a player obtaining one of said reward cards upon correctly answering a question contained on a question card.

13. A board game apparatus as recited in claim 6 further including a set of cards, each card representing the ownership of a particular one of said geographical localities, each said

card containing indicia thereon indicative of the value of said locality at various stages of improvement.

14. A board game apparatus as recited in claim 13 further including a set of pieces for the purpose of purchase and placement on said areas representative of improvements in said geographical localities represented by said areas.

15. A board game apparatus as recited in claim 6 wherein selected ones of said areas have indications of opening bids required for a player to purchase the locality represented by said area.

16. A board game apparatus as recited in claim 6 wherein each of said mode of transportation representations on a multi-token is constructed and arranged to be distinguishable from every other representation of the multi-token and has a priority designation, a higher priority representation of a multi-token being moveable only after every lower priority representation of the multi-token has made a complete circuit of said path.

17. A board game apparatus as recited in claim 1 wherein each such area comprising one of said groups is on a different side of said board.

18. A board game apparatus as recited in claim 1 which is adapted to acquaint each player with sites in said region and further comprises a set of cards including cards having a question with respect to said region which must be answered by a player and cards including instructions, selected areas on said board having instructions thereon to select one of said set of cards upon a player landing on one of said selected areas.

19. A board game apparatus as recited in claim 18 further comprising a set of reward cards, a player obtaining one of said reward cards upon correctly answering a question contained on a question card.

20. A board game apparatus as recited in claim 1 further comprising a set of property cards, each property card representing the ownership of a particular one of said localities, each said card containing indicia thereon indicative of the value of said locality at various stages of improvement.

21. A board game apparatus as recited in claim 20 further comprising a set of indicators for purchase, said indicators representing improvements in said localities represented by said areas.

22. A board game as in claim 1 where the visual indications of movement of a multi-token on the outer surface of the gripping wings comprise GO and NO GO indications.

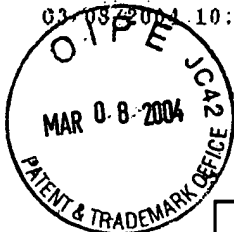
23. A board game as in claim 22 wherein the color the GO indication is green and the color the NO GO indication is red.

24. A board game apparatus as in claim 1, wherein a plurality of multi-tokens stacked at a marked area has each multi-token in the stack displaying its respective visual indication on the respective gripping wings displayed.

25. A board game apparatus as in claim 1, wherein each said multi-token is of a different color to identify the player to which it belongs.

26. A board game apparatus as in claim 1 wherein said visual indication on the outer surface of a gripping wing at each end of a said multi-token body is of a different color.

27. A board game apparatus as in claim 26 wherein there also is a printed indicia of GO and NO GO on each of visual indications.



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PTO/SB/17 (10-03)

Approved for use through 7/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003, Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 165.00

Complete if Known

Application Number 09/699,955
Filing Date October 30, 2000
First Named Inventor Dennis Barry
Examiner Name A. A. Hunter
Art Unit 3711
Attorney Docket No. 01150/000H262-USO

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account

Deposit Account Number

04-0100

Deposit Account Name

Darby & Darby P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English application	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	165.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	460	2502	230	Design issue fee	
1503	840	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(d)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
6021	40	6021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 165.00

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	630	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from Below	Fee Paid
Independent Claims			
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	80	2204	40	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

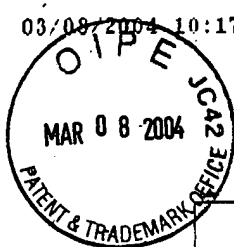
SUBTOTAL (2) (\$) 0.00


*or number previously paid, if greater; For Reissues, see above

SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Gordon D. Coplein	Registration No. (Attorney/Agent)	19,165
Signature	<i>Gordon D. Coplein</i>	Telephone	(212) 527-7700
		Date	March 8, 2004

Express Mail Label No.

Dated: _____



TRANSMITTAL OF APPEAL BRIEF			Docket No. 01150/000H262-US0
In re Application of: Dennis Barry			
Application No. 09/899,955	Filing Date October 30, 2000	Examiner A. A. Hunter	Group Art Unit 3711
Invention: VEHICUBE-FLORIDA FUN & FORTUNE			
<u>TO THE COMMISSIONER OF PATENTS:</u>			
Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed: <u>January 8, 2004</u>			
The fee for filing this Appeal Brief is <u>165.00</u>			
<input type="checkbox"/> Large Entity <input checked="" type="checkbox"/> Small Entity			
<input checked="" type="checkbox"/> A check in the amount of <u>165.00</u> is enclosed.			
<input type="checkbox"/> Charge the amount of the fee to Deposit Account No. _____ This sheet is submitted in duplicate.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. <u>04-0100</u> This sheet is submitted in duplicate.			
 Gordon D. Coplein Attorney Reg. No. : 19,165 DARBY & DARBY P.C. P.O. Box 5257 New York, New York 10150-5257 (212) 527-7700		Dated: <u>March 8, 2004</u>	
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